



1 Plaintiff ROBERT BOHLKE (“Plaintiff”), individually and on behalf of all  
 2 others similarly situated, alleges the following upon information and belief based  
 3 upon personal knowledge:

#### 4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others  
 6 similarly situated seeking damages and any other available legal or equitable  
 7 remedies resulting from the illegal actions of INTERCONTINENTAL CAPITAL  
 8 GROUP, INC. (“Defendant”), in negligently, knowingly, and/or willfully  
 9 contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone  
 10 Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”) and related  
 11 regulations, specifically the National Do-Not-Call provisions, thereby invading  
 12 Plaintiff’s privacy.

#### 13 **JURISDICTION & VENUE**

14 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
 15 a resident of California, seeks relief on behalf of a Class, which will result in at  
 16 least one class member belonging to a different state than that of Defendant, a New  
 17 York company. Plaintiff also seeks up to \$1,500.00 in damages for each call in  
 18 violation of the TCPA, which, when aggregated among a proposed class in the  
 19 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
 20 Therefore, both diversity jurisdiction and the damages threshold under the Class  
 21 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

22 3. Venue is proper in the United States District Court for the Central  
 23 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
 24 business within the State of California and Plaintiff resides within the County of  
 25 Los Angeles.

#### 26 **PARTIES**

27 4. Plaintiff, ROBERT BOHLKE (“Plaintiff”), is a natural person  
 28 residing in Canyon Country, California and is a “person” as defined by 47 U.S.C.

1 § 153(39).

2 5. Defendant, INTERCONTINENTAL CAPITAL GROUP, INC.  
3 (“Defendant”) is a real estate company, and is a “person” as defined by 47 U.S.C.  
4 § 153(39).

5 6. The above named Defendant, and its subsidiaries and agents, are  
6 collectively referred to as “Defendants.” The true names and capacities of the  
7 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
8 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
9 names. Each of the Defendants designated herein as a DOE is legally responsible  
10 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
11 Complaint to reflect the true names and capacities of the DOE Defendants when  
12 such identities become known.

13 7. Plaintiff is informed and believes that at all relevant times, each and  
14 every Defendant was acting as an agent and/or employee of each of the other  
15 Defendants and was acting within the course and scope of said agency and/or  
16 employment with the full knowledge and consent of each of the other Defendants.  
17 Plaintiff is informed and believes that each of the acts and/or omissions complained  
18 of herein was made known to, and ratified by, each of the other Defendants.

19 **FACTUAL ALLEGATIONS**

20 8. Beginning in or around May of 2016, Defendant contacted Plaintiff  
21 on Plaintiff’s cellular telephone number ending in -9695, in an attempt to solicit  
22 Plaintiff to purchase Defendant’s services.

23 9. Defendant identified itself as “Fellowship Home Loans” (“FHL”).

24 10. FHL is wholly owned by Defendant.

25 11. Furthermore, Defendant does business as FHL in states where it is  
26 allowed to do so and does business as “InterContinental Capital Group, Inc.” in  
27 states where it is not, e.g., the State of New York.

28 12. Defendant used an “automatic telephone dialing system” as defined

1 by 47 U.S.C. § 227(a)(1) to place its call to Plaintiff seeking to solicit its services.

2 13. Defendant contacted or attempted to contact Plaintiff from telephone  
3 number (516) 714-4169 confirmed to be Defendant's number.

4 14. Defendant's calls constituted calls that were not for emergency  
5 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

6 15. Defendant's calls were placed to telephone number assigned to a  
7 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
8 pursuant to 47 U.S.C. § 227(b)(1).

9 16. During all relevant times, Defendant did not possess Plaintiff's "prior  
10 express consent" to receive calls using an automatic telephone dialing system or an  
11 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §  
12 227(b)(1)(A).

13 17. Further, Plaintiff's cellular telephone number ending in -9695 was  
14 added to the National Do-Not-Call Registry on or about July 27, 2003.

15 18. Defendant placed multiple calls soliciting its business to Plaintiff on  
16 his cellular telephone ending in -9695 in or around May of 2016.

17 19. Such calls constitute solicitation calls pursuant to 47 C.F.R. §  
18 64.1200(c)(2) as they were attempts to promote or sell Defendant's services.

19 20. Plaintiff received numerous solicitation calls from Defendant within a  
20 12-month period.

21 21. Defendant continued to call Plaintiff in an attempt to solicit its  
22 services and in violation of the National Do-Not-Call provisions of the TCPA.

23 22. Upon information and belief, and based on Plaintiff's experiences of  
24 being called by Defendant after being on the National Do-Not-Call list for several  
25 years prior to Defendant's initial call, and at all relevant times, Defendant failed to  
26 establish and implement reasonable practices and procedures to effectively prevent  
27 telephone solicitations in violation of the regulations prescribed under 47 U.S.C. §  
28 227(c)(5).

**CLASS ALLEGATIONS**

23. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member the two proposed classes (hereafter, jointly, “The Classes”).

24. The class concerning the ATDS claim for no prior express consent (hereafter “The ATDS Class”) is defined as follows:

All persons within the United States who received any solicitation/telemarketing telephone calls from Defendant to said person’s cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

25. The class concerning the National Do-Not-Call violation (hereafter “The DNC Class”) is defined as follows:

All persons within the United States registered on the National Do-Not-Call Registry for at least 30 days, who had not granted Defendant prior express consent nor had a prior established business relationship, who received more than one call made by or on behalf of Defendant that promoted Defendant’s products or services, within any twelve-month period, within four years prior to the filing of the complaint.

26. Plaintiff represents, and is a member of, The ATDS Class, consisting of all persons within the United States who received any collection telephone calls from Defendant to said person’s cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously not provided their cellular telephone number to Defendant within the four years prior to the filing of this Complaint.

1           27. Plaintiff represents, and is a member of, The DNC Class, consisting  
2 of all persons within the United States registered on the National Do-Not-Call  
3 Registry for at least 30 days, who had not granted Defendant prior express consent  
4 nor had a prior established business relationship, who received more than one call  
5 made by or on behalf of Defendant that promoted Defendant's products or services,  
6 within any twelve-month period, within four years prior to the filing of the  
7 complaint.

8           28. Defendant, its employees and agents are excluded from The Classes.  
9 Plaintiff does not know the number of members in The Classes, but believes the  
10 Classes members number in the thousands, if not more. Thus, this matter should  
11 be certified as a Class Action to assist in the expeditious litigation of the matter.

12           29. The Classes are so numerous that the individual joinder of all of its  
13 members is impractical. While the exact number and identities of The Classes  
14 members are unknown to Plaintiff at this time and can only be ascertained through  
15 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
16 The Classes includes thousands of members. Plaintiff alleges that The Classes  
17 members may be ascertained by the records maintained by Defendant.

18           30. Plaintiff and members of The ATDS Class were harmed by the acts of  
19 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
20 and ATDS Class members via their cellular telephones thereby causing Plaintiff  
21 and ATDS Class members to incur certain charges or reduced telephone time for  
22 which Plaintiff and ATDS Class members had previously paid by having to retrieve  
23 or administer messages left by Defendant during those illegal calls, and invading  
24 the privacy of said Plaintiff and ATDS Class members.

25           31. Common questions of fact and law exist as to all members of The  
26 ATDS Class which predominate over any questions affecting only individual  
27 members of The ATDS Class. These common legal and factual questions, which  
28 do not vary between ATDS Class members, and which may be determined without

1 reference to the individual circumstances of any ATDS Class members, include,  
2 but are not limited to, the following:

- 3 a. Whether, within the four years prior to the filing of this  
4 Complaint, Defendant made any telemarketing/solicitation call  
5 (other than a call made for emergency purposes or made with  
6 the prior express consent of the called party) to a ATDS Class  
7 member using any automatic telephone dialing system or any  
8 artificial or prerecorded voice to any telephone number  
9 assigned to a cellular telephone service;
- 10 b. Whether Plaintiff and the ATDS Class members were damaged  
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant should be enjoined from engaging in such  
13 conduct in the future.

14 32. As a person that received numerous telemarketing/solicitation calls  
15 from Defendant using an automatic telephone dialing system or an artificial or  
16 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting  
17 claims that are typical of The ATDS Class.

18 33. Plaintiff and members of The DNC Class were harmed by the acts of  
19 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
20 and DNC Class members via their telephones for solicitation purposes, thereby  
21 invading the privacy of said Plaintiff and the DNC Class members whose telephone  
22 numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class  
23 members were damaged thereby.

24 34. Common questions of fact and law exist as to all members of The  
25 DNC Class which predominate over any questions affecting only individual  
26 members of The DNC Class. These common legal and factual questions, which do  
27 not vary between DNC Class members, and which may be determined without  
28 reference to the individual circumstances of any DNC Class members, include, but



1 are not limited to, the following:

- 2 a. Whether, within the four years prior to the filing of this  
3 Complaint, Defendant or its agents placed more than one  
4 solicitation call to the members of the DNC Class whose  
5 telephone numbers were on the National Do-Not-Call Registry  
6 and who had not granted prior express consent to Defendant and  
7 did not have an established business relationship with  
8 Defendant;
- 9 b. Whether Defendant obtained prior express written consent to  
10 place solicitation calls to Plaintiff or the DNC Class members'  
11 telephones;
- 12 c. Whether Plaintiff and the DNC Class member were damaged  
13 thereby, and the extent of damages for such violation; and
- 14 d. Whether Defendant and its agents should be enjoined from  
15 engaging in such conduct in the future.

16 35. As a person that received numerous solicitation calls from Defendant  
17 within a 12-month period, who had not granted Defendant prior express consent  
18 and did not have an established business relationship with Defendant, Plaintiff is  
19 asserting claims that are typical of the DNC Class.

20 36. Plaintiff will fairly and adequately protect the interests of the members  
21 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of  
22 class actions.

23 37. A class action is superior to other available methods of fair and  
24 efficient adjudication of this controversy, since individual litigation of the claims  
25 of all Classes members is impracticable. Even if every Classes member could  
26 afford individual litigation, the court system could not. It would be unduly  
27 burdensome to the courts in which individual litigation of numerous issues would  
28 proceed. Individualized litigation would also present the potential for varying,



inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Classes member.

38. The prosecution of separate actions by individual Classes members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Classes members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

39. Defendant has acted or refused to act in respects generally applicable to The Classes, thereby making appropriate final and injunctive relief with regard to the members of the Classes as a whole.

### **FIRST CAUSE OF ACTION**

#### **Negligent Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227(b).**

#### **On Behalf of the ATDS Class**

40. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-39.

41. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular *47 U.S.C. § 227 (b)(1)(A)*.

42. As a result of Defendant's negligent violations of *47 U.S.C. § 227(b)*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

43. Plaintiff and the ATDS Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(b)**

**On Behalf of the ATDS Class**

44. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-39.

45. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular *47 U.S.C. § 227 (b)(1)(A)*.

46. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227(b)*, Plaintiff and the ATDS Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

47. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**THIRD CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(c)**

**On Behalf of the DNC Class**

48. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-39.

49. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*, and in particular *47 U.S.C. § 227 (c)(5)*.

50. As a result of Defendant's negligent violations of *47 U.S.C. § 227(c)*,

1 Plaintiff and the DNC Class Members are entitled an award of \$500.00 in statutory  
2 damages, for each and every violation, pursuant to *47 U.S.C. § 227(c)(5)(B)*.

3 51. Plaintiff and the DNC Class members are also entitled to and seek  
4 injunctive relief prohibiting such conduct in the future.

#### 5 **FOURTH CAUSE OF ACTION**

##### 6 **Knowing and/or Willful Violations of the Telephone Consumer Protection**

##### 7 **Act**

##### 8 **47 U.S.C. §227 et seq.**

##### 9 **On Behalf of the DNC Class**

10 52. Plaintiff repeats and incorporates by reference into this cause of action  
11 the allegations set forth above at Paragraphs 1-39.

12 53. The foregoing acts and omissions of Defendant constitute numerous  
13 and multiple knowing and/or willful violations of the TCPA, including but not  
14 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(c)*,  
15 in particular *47 U.S.C. § 227 (c)(5)*.

16 54. As a result of Defendant's knowing and/or willful violations of *47*  
17 *U.S.C. § 227(c)*, Plaintiff and the DNC Class members are entitled an award of  
18 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*  
19 *§ 227(c)(5)*.

20 55. Plaintiff and the DNC Class members are also entitled to and seek  
21 injunctive relief prohibiting such conduct in the future.

#### 22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

#### 24 **FIRST CAUSE OF ACTION**

##### 25 **Negligent Violations of the Telephone Consumer Protection Act**

##### 26 **47 U.S.C. §227(b)**

- 27 • As a result of Defendant's negligent violations of *47 U.S.C.*  
28 *§227(b)(1)*, Plaintiff and the ATDS Class members are entitled to and

request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).

- Any and all other relief that the Court deems just and proper.

## **SECOND CAUSE OF ACTION**

### **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227(b)**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

## **THIRD CAUSE OF ACTION**

### **Negligent Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227(c)**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5).
- Any and all other relief that the Court deems just and proper.

## **FOURTH CAUSE OF ACTION**

### **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227(c)**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class members are entitled to and request treble damages, as provided by statute, up to \$1,500,

1 for each and every violation, pursuant to 47 U.S.C. §227(c)(5).

- 2 • Any and all other relief that the Court deems just and proper.

3 56. Pursuant to the Seventh Amendment to the Constitution of the United  
4 States of America, Plaintiff is entitled to, and demands, a trial by jury.

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6  
7 Respectfully Submitted this 15th Day of February, 2017.

8 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

9 By: /s/ Todd M. Friedman

10 Todd M. Friedman

11 Law Offices of Todd M. Friedman

12 Attorney for Plaintiff  
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